

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA :

v. : CRIMINAL NO. 04-10010-PBS

MATTHEW DWINELLS :

GOVERNMENT'S REQUESTED QUESTIONS FOR VOIR DIRE

The United States of America, by its undersigned attorneys, respectfully submits the questions below for inclusion by the court during the voir dire of the jury panel in the above-referenced matter.

The United States does not believe that either attorney conducted or individual voir dire will be necessary to empanel a fair and impartial jury in this matter. With respect to the court's request for an open-ended question for the jury panel, which gives the venire the opportunity to respond to the unique nature of these charges, the United States respectfully submits the following question:

The defendant in this case is charged with federal offenses which make it unlawful to use the internet to knowingly persuade, induce or entice an individual who has not attained the age of 18 years to engage in any illegal sexual activity. In this case, the minors were portrayed online by undercover police officers posing as fourteen year-old girls. Is there anything about the nature of the case as outlined here that would make it particularly difficult for you to be objective in evaluating the facts of this case or prevent you from rendering a fair and impartial verdict?

PART I - General Voir Dire

I. BACKGROUND QUESTIONS

A. **Knowledge of parties, attorneys, other panel members**

1. The defendant, Matthew Dwinells, currently resides in New Hampshire, but formerly resided in Lawrence, Massachusetts and was employed by Andover Controls. Does any member of the panel know the defendant, Matthew Dwinells, or any member of any of the defendant's family?

2. Does any member of the panel know the following potential witnesses:

[Court to Read Witness Lists]

3. Do any members of the panel know each other?

4. Do you know me?

5. Do you know, have you been represented by, or have friends or relatives who know or have been represented by, either of the government attorneys?

6. Do you know, have you been represented by, or have friends or relatives who know or have been represented by, either of the defense attorneys or any member of the defense attorney's staff ?

B. **Law enforcement**

1. Have you ever received any training in law or law enforcement (police work of any kind)?

2. If you answered "yes," please describe the nature of your training and length of the training.
3. Has any member of the panel, or relative or close friend, ever been employed by any federal, state, local or private law enforcement agency, such as a police department, a sheriff's office, a military stockade or brig, a private security company, or a penitentiary or other custodial facility?
 - a. If so:
 - (1) in what capacity did you, your relative or close friend serve?
 - (2) if a relative or close friend is or was so employed, do you or did you often discuss their work with them?
3. Does any member of the panel, or a relative or close friend, belong to any organization which is connected or related in any way to law enforcement, police departments or police officers?
4. Do you belong to or associate with any groups which have crime prevention or law enforcement as a primary goal?

C. Government and military service

1. Has any member of the panel, or any member of your immediate family, been employed by the United States government or its armed services?

D. Previous jury service

1. Has any member of the panel previously served as a juror?

E. Previous experience as a party to litigation

1. Have you ever been a party to a lawsuit which has resulted in a trial?
2. If so:
 - a. were you a plaintiff or a defendant?
 - b. what was the nature of the litigation?
 - c. do you believe that you and/or the party with whom you were associate with in the litigation were treated fairly or unfairly by the legal system?

F. Dealings with the government

1. Have you or any of your relatives or close friends ever had any unfavorable dealings or involvement, for example, disputes, lawsuits, audits, etc., with the United States Government, the IRS, the FBI or the United States Attorney's Office?
2. Do any of you have any personal feelings against the federal government for whatever reason?

G. Legal training and experience

1. Have you had any training in law? If so:
 - a. Are you a practicing attorney?

- (1) What areas of practice have you been involved in during your career?
2. Are you now, or have you ever been, a member of a any criminal defense or prosecution-oriented associations or organizations? If so, please elaborate.
3. If you have ever practiced criminal law, or presently practice criminal law, either as a prosecutor or defense attorney, would that experience prevent you from being a fair and impartial juror in this case? Are any members of your family, close friends, or work associates attorneys or employed in law offices? If so, what type of law practice are they involved in?

H. Involvement in the criminal justice system

1. Have you, or has any member of your family, or any close friend, ever been the victim of a crime or participated in a criminal case as a complainant, witness for the government, or in some other capacity? If yes, please explain.
2. Have you, or has any member of your family, or any close friend, been arrested or the subject of a criminal investigation, or participated in a criminal case as a

defendant, witness for the defense, or in some other capacity? If yes, please explain.

I. Dealings/disputes with the United States

1. Do you, or does any member of your family, or any close friend, have any dealings with the United States government or any of its agencies, from which you might profit?
2. Have you ever had, or do you now have, or do you presently anticipate having, any case or dispute with or claim against the United States government?
3. Are you, or have you ever been, an official or employee of the United States government? If yes, please explain.
4. Is any member of your family, or any close friend, or have they ever been, an official or employee of the United States government? If yes, please explain.

II. IMPAIRMENT AND BIAS QUESTIONS

1. Do you have any physical or mental difficulties which might prevent you from seeing or reading exhibits introduced in evidence, from hearing the testimony that will come from the witness chair or otherwise interfere with your duties as a fair and impartial juror?
2. Are you now taking or do you anticipate taking medication of any kind during the course of the trial? What type of

medication? Does this medication in any way affect your attention or your ability to concentrate, understand, consider and weigh the evidence in this case?

3. Do you have any convictions, whether moral, political, religious, philosophical or otherwise, that would prevent you from being a fair and impartial juror in this case or that would make it difficult for you to sit in judgment of your fellow man? For example, do you believe that no one should ever be convicted? Do you believe that a person is guilty just because he is here in court?
3. Does any member of the panel feel that the criminal justice system treats those accused of a crime too harshly or too leniently?
4. To admit to having some sympathy for either the defendant or the United States in this case is nothing to be ashamed of and does not reflect badly upon you as a person. However, both the United States and the defendant are entitled to have this case heard by a fair and impartial jury that will decide the case solely according to the evidence admitted in this Court, according to the Court's instructions on the law, and without regard to any bias, sympathy, prejudice or public opinion for either party. With this in mind, do any of you

know any reason why you would be unable to give either the United States or the defendant a fair trial based solely on the evidence admitted at trial and the instructions given by the Court without regard to sympathy, bias or prejudice?

5. If you were representing the government or the defendant in this case, is there any reason why you would not be content to have this case decided by someone in your frame of mind?

PART II - Case Specific Voir Dire

The defendant in this case is charged with federal offenses which make it unlawful to use the internet to knowingly persuade, induce or entice an individual who has not attained the age of 18 years to engage in any illegal sexual activity.

1. Is there anything about the nature of the charges outlined here that would make it particularly difficult for you to be objective in evaluating the facts of this case or prevent you from rendering a fair and impartial verdict?
2. Other than what I just told you, do you know anything at all about the facts of this case?
3. Does your job entail working with computers? If so, please describe the nature of you work with computers.
4. Do you own a home computer?

5. Do you access the Internet? If so, for what purpose or purposes do you access the Internet?
6. Do you use, or have you ever used, the services of America Online (AOL) or Yahoo? Please describe the services you have used on AOL and Yahoo.
7. Do you have any opinions, religious beliefs, philosophies, or prejudices which would make you unable to come to a verdict in this case? For example, do you believe that no person should ever be judged or convicted? Do you believe that a person is guilty just because they are here in court?

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

/s/ Donald L. Cabell
DONALD L. CABELL
Assistant United States Attorney
SARA L. GOTTOVI
Trial Attorney
United States Department of Justice
Child Exploitation and Obscenity Section

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Government's Requested Questions for *Voir Dire* has been served by me this date upon Syrie Fried, by placing a copy in the Federal Defender's Box.

/s/ Donald L. Cabell
DONALD L. CABELL
Assistant United States Attorney

July 22, 2005